

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

STEVEN PELESASA FUE,
Petitioner-Appellant,

v.

MARTIN BITER, Warden,
Respondent-Appellee.

No. 12-55307

D.C. No.
2:11-cv-02436-DMG-MRW

ORDER

Filed August 4, 2016

ORDER

THOMAS, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.